

SENATE BILL NO. 459

INTRODUCED BY B. MCCARTHY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE WHOLESALE ENERGY TRANSACTION TAX;
5 CLARIFYING WHO PAYS THE WHOLESALE ENERGY TRANSACTION TAX; CLARIFYING THAT THE
6 TRANSMISSION LINE LOSS REDUCTION ONLY APPLIES TO OUT-OF-STATE DELIVERIES OF
7 ELECTRICITY; ELIMINATING RESPONSIBILITY OF THE DISTRIBUTION SERVICES PROVIDER TO PAY
8 THE WHOLESALE ENERGY TRANSACTION TAX FOR IN-STATE DELIVERIES OF ELECTRICITY FROM AN
9 IN-STATE GENERATOR; ELIMINATING THE REQUIREMENT THAT RURAL ELECTRIC COOPERATIVES
10 COLLECT THE TAX FOR DELIVERIES TO CHOICE CUSTOMERS; ELIMINATING THE REQUIREMENT THAT
11 THE TAX WOULD BE PAID BY THE DISTRIBUTION SERVICES PROVIDER FOR A GENERATOR THAT
12 SELLS ELECTRICITY BOTH IN-STATE AND OUT-OF-STATE; AMENDING SECTION 15-72-104, MCA; AND
13 PROVIDING AN EFFECTIVE DATE."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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17 **Section 1.** Section 15-72-104, MCA, is amended to read:18 **"15-72-104. Wholesale energy transaction tax -- rate of tax -- exemptions -- cost recovery.** (1) (a)

19 Except as provided in subsection (3), a wholesale energy transaction tax is imposed upon electricity transmitted
20 within the state as provided in this section. The tax is imposed at a rate of 0.015 cent per kilowatt hour of
21 electricity transmitted by a transmission services provider in the state.

22 (b) For electricity produced in the state for delivery either inside or outside of the state, the taxpayer is
23 the person owning or operating the electrical generation facility producing the electricity. The transmission
24 services provider shall collect the tax from the person based upon the kilowatt hours introduced onto
25 transmission lines from the electrical generation facility. ~~The~~ For electricity delivered outside of the state, the
26 amount of kilowatt hours subject to tax must be reduced by 5% to compensate for transmission line losses.

27 ~~(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution~~
28 ~~services provider. The transmission services provider shall collect the tax based upon the amount of kilowatt~~
29 ~~hours of electricity delivered to the distribution services provider. The taxpayer may apply for a refund for~~
30 ~~overpayment of taxes pursuant to 15-72-116.~~

1 ~~(d)(c)~~ For electricity produced outside the state for delivery and use inside the state, the taxpayer is the
2 distribution services provider. The transmission services provider shall collect the tax based upon the amount
3 of kilowatt hours of electricity delivered to the distribution services provider.

4 ~~(e)~~ For electricity delivered to a distribution services provider that is a rural electric cooperative for
5 delivery to purchasers that have opted for customer choice under the provisions of Title 69, chapter 8, part 3,
6 the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based
7 on the amount of kilowatt hours of electricity delivered to the distribution services provider that is attributable to
8 customers that have opted for customer choice.

9 ~~(f)~~ For electricity delivered to a distribution services provider that prior to May 2, 1999, was owned by
10 a public utility as defined in 69-3-101, the tax is imposed on the successor distribution services provider. The
11 transmission services provider shall collect the tax based upon the amount of kilowatt hours of electricity
12 delivered to the distribution services provider.

13 (2) (a) If more than one transmission services provider transmits electricity, the last transmission
14 services provider transmitting or delivering the electricity shall collect the tax.

15 (b) If the transmission services provider is an agency of the United States government, the distribution
16 services provider receiving the electricity shall self-assess the tax subject to the provisions of this part.

17 ~~(c)~~ If an electrical generation facility located within the state produces electricity for sale inside and
18 outside the state, sales within the state are considered to have come from electricity produced within the state
19 for purposes of the tax imposed by this section.

20 (3) (a) Electricity transmitted through the state that is not produced or delivered in the state is exempt
21 from the tax imposed by this section.

22 (b) Electricity produced in the state by an agency of the United States government or electricity
23 produced from an electric energy generation facility, as defined in 90-5-101(3), constructed after May 1, 2001,
24 that is within the exterior boundaries of a Montana Indian reservation for delivery outside of the state is exempt
25 from the tax imposed by this section.

26 (c) Electricity produced by wind turbines erected on state land for which annual lease payments are
27 made to the permanent school trust fund is exempt from the tax imposed by this section.

28 (d) Electricity delivered to a distribution services provider that is a municipal utility described in
29 69-8-103(5)(b) or a rural electric cooperative organized under the provisions of Title 35, chapter 18, is exempt
30 from the tax imposed by this section.

1 (e) Electricity delivered to a purchaser that receives its power directly from a transmission or distribution
2 facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is
3 transmitted exclusively on transmission or distribution facilities owned by an entity of the United States
4 government on or before May 2, 1997, is exempt from the tax imposed by this section.

5 (4) A distribution services provider is allowed to recover the tax imposed by this section and the
6 administrative costs to comply with this part in its rates."

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2003.

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